

TOWN OF WILTON
ZONING BOARD of ADJUSTMENT
Minutes



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Date: Tuesday, November 14, 2023 at 7:00 PM
Location: Wilton Town Hall Courtroom, 42 Main Street
Board Members Present: Peg Duggan (alternate); Neil Faiman; Joanna Eckstrom; Jeff Stone
Board Members Absent: Judith Klinghoffer; Linda Jennings (alternate)
Board Secretary: Caryn Case
Attendees: Jared Fait (applicant); Lisa Perenzin; Shawn Dunphy, Esq; Gary Lord; Michael Ewing; Ben Piche; Amanda Tongue; Steve Proctor; Gail Proctor; Walt Bausha; Jeffrey Abbott; Wendy Cheney; Jose Ramos (applicant); Anayn Elson; Corey Fong; Dana Lorden (applicant)

I. Call to Order

N Faiman called the meeting to order at 7:03 PM. Neil Faiman said the Zoning Board of Adjustment has a policy of requiring masks at meetings. He identified an attendee who was not wearing a mask which started a debate.

J Stone felt we could not restrict an attendee from being present who chooses not to wear a mask and suggested the Board change the order of the meeting to permit that attendee to speak and leave early.

JK Eckstrom voiced concerned about attendees not wearing masks in regards to those who might be experiencing an ailment and find that mask wearing is a comforting precaution.

A Elson, attendee, was against wearing a mask for personal reasons and remarked that there is no study that mask wearing is effective.

JK Eckstrom said she would feel more at ease if the attendee not wearing a mask stood in the hall to observe the meeting, to which the attendee agreed, and a chair was provided.

N Faiman then continued the meeting by asking attendees to acknowledge their presence on the sign-in sheet, and if requesting to speak to identify themselves by name, address, occupation and association to the case. He advised the attendees it was their right to be able to hear the Board, and a request to speak-up would be respected.

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37
38 N Faiman introduced the Board that was present and said all members would sit and vote on the
39 cases that evening.

40
41 Last, N Faiman said the meeting will end at 9:30 unless the Board unanimously votes to continue.
42 He said the meeting would run no later than ten (10) PM.

43

44 **2. Minutes**

45 JK Eckstrom asked to defer the minutes as they are not applicable to any cases this evening.

46

47 N Faiman asked the Board if all were in agreement, to which the Board agreed.

48

49 **3. Fait's Property Maintenance, Public Hearing NEW**

50 Case #11/14/2023-01

51 *Fait's Property Maintenance, LLC has requested a variance to section 5.2.1 of the Wilton Zoning*
52 *Ordinance to construct a single-family home on a lot which is smaller than the minimum lot size*
53 *required by the Ordinance on Lot J-112-1, Island Street and Mill Street.*

54

55 N Faiman read the applicants request and summarized the process of presentation and response.

56

57 S Dunphy, Esq. said his client is requesting a variance to reduce the area requirement to allow
58 construction of a single family dwelling unit on a pre-existing non-conforming lot. He said the lot is
59 located in the Residential District.

60

61 S Dunphy, Esq. said granting the variance was in the spirit of the zoning ordinance by permitting its
62 residential use. Also, granting the variance would do substantial justice as loss to the applicant
63 would be far greater than it would be to the general public. He said the proposed residential use is
64 consistent with the character of the neighborhood, would not diminish surrounding property
65 values, nor impact the health or welfare of the residents. Most importantly, he said parking was not
66 an issue.

67

68 S Dunphy, Esq. said the history and size of the property are its distinguishing characteristics and
69 contribute to its hardship. He said a variance is necessary for its reasonable use.

70

71 JK Eckstrom asked about site access and on-site parking. J Fait said access to the residence would
72 be on Mill Street. L Perenzin said the driveway would accommodate up to four (4) parking spaces.

73

74 J Stone asked about the proposed building plans and if they would mirror the character of other
75 homes in the area. S Dunphy, Esq. said the goal is to stay within the characteristics of the
76 architecture of the neighborhood.

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77
78 Neil opened the floor to attendee comment.

79
80 G Proctor distributed written comments to the Board objecting the variance on a lot that is less
81 than what is required. She said she disagrees with the applicant's narrative and said the proposed
82 home will reduce values and overwhelm the area.

83
84 G Proctor said the best use of the lot would be to combine it with the neighboring lot to
85 accommodate parking for that multi-unit residential dwelling unit as well as to resolve safety and
86 traffic issues.

87
88 JK Eckstrom summarized the proposal and made a motion to close the hearing.

89
90 **JK Eckstrom MOVED to close the public hearing. A Hoar SECONDED.**

91 There was no discussion.

92 Voice Vote: ayes: 5
93 nays 0
94 abstain: 0

95 Motion was carried.

96
97 N Faiman said the Board would discuss the request without attendee participation, and then re-
98 open the hearing and give attendees a last opportunity to address things that may have missed.

99
100 JK Eckstrom said the applicant's request is keeping with the footprint as was presented for the
101 special exception, and the five (5) criteria for accepting a variance had been met.

102
103 N Faiman remarked that the property is NOT a lot of record which makes it unusual. He said the
104 applicant could leave it as an open field as a generous donation to the community, but that was not
105 a viable solution for the applicant.

106
107 J Stone was assured the lot resulted from a subdivision in 1959, but not given a parcel number until
108 1970. The applicant's Exhibit 'C' describes the parcel as a separate lot at a time which preceded the
109 1971 Wilton Zoning Ordinance.

110
111 JK Eckstrom said the lot has been assessed and taxed as a residential lot, and the attendees
112 requested use as a parking lot is not a residential use.

113
114 N Faiman said in regards to the variance being contrary to the public interest, spirit of the
115 ordinance, substantial justice, property values, and literal enforcement of the ordinances, the

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116 applicant's responses had been persuasive. In summary, he said, the hardship justifies the request
117 and cited the findings of fact:

- 118 • The lot size is 0.25 acres;
- 119 • The lot is at the corner of Island Street and Mill Street;
- 120 • The lot satisfies the Ordinance definition of a "Lot," but not a
121 "Lot of Record;"
- 122 • The lot existed with its present dimensions at least as long
123 ago as 1954;
- 124 • The applicant proposes to construct a single-family home, as
125 illustrated on a "Proposed Construction Plan" that was
126 submitted in Case #6/13/2023-4;
- 127 • Zoning Ordinance Section 5.2.1 requires a lot size of 0.5
128 acres per dwelling unit for residential uses in the Residential
129 District;
- 130 • Notwithstanding Section 5.2.1, Zoning Ordinance Section
131 17.2(a) would allow use of the lot for a single family dwelling
132 only if it were a lot of record.

133
134 N Faiman made a motion to approve the request for a variance with cited facts and applicant's
135 responses to the criteria guidelines.

136
137 **JK Eckstrom MOVED to grant the request for a variance to section 5.2.1 of the**
138 **Wilton Zoning Ordinance. A Hoar SECONDED.**

139
140 **J Stone MOVED to re-open the public hearing. A Hoar SECONDED.**

141 There was no discussion.

142	Voice Vote:	ayes:	5
143		nays	0
144		abstain:	0

145 Motion was carried.

146
147 Neil opened the floor to the attendees one last time. There was no additional discussion. N Faiman,
148 then called for a vote on the motion.

149	Roll Call Vote:	P Duggan	aye
150		A Hoar	aye
151		N Faiman	aye
152		JK Eckstrom	aye
153		J Stone	aye

154 Motion was carried.

155
156

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157
158 N Faiman instructed the applicant that a Notice of Decision would be forthcoming, and that the
159 Select Board, abutters, and any person directly involved in the hearing affected by the decision has
160 the right to ask the Zoning Board of Adjustment to reconsider their decision by way of written
161 request no more than 30 days after the decision was made explaining the reasons why the decision
162 should be changed. He stated that any activity/progress by the applicant during that period on the
163 request could be at risk if the decisions is overturned at a rehearing.

164
165 **3. RA-LO & Associates, LLC, Public Hearing NEW**

166 Case # 11/14/2023/02

167 *Ra-Lo and Associates, LLC has requested a variance to section 5.2.1 of the Wilton Zoning*
168 *Ordinance to allow construction of a three-family home on Lot K-105-3-1, Pine Valley Street, where*
169 *the Ordinance requires one-half acre per dwelling unit.*

170
171 N Faiman read the requests for both cases and stated that since the requests are substantially the
172 same request for each lot with exception to lot size and dimension, he asked the applicant to
173 present both cases together, mentioning however, the Board would vote on each lot, individually.
174 (Subsequently, the Board discussed, made a decision and voted on both lots together.)

175
176 J Ramos distributed enlarged versions of the proposed lot plan, while D Lorden presented their
177 objectives and the lots hardships:

- 178 • To provide necessary workforce housing commensurate with that threshold determined
- 179 for the Town of Wilton;
- 180 • To blend in with the existing character of the neighborhood and increase property
- 181 values; and
- 182 • Limit the area of development to mirror the building envelopes referenced in the
- 183 subdivision plan notes approved by the Planning Board, January 2022. Additionally,
- 184 extending the town water line, adding a neighborhood fire hydrant, and protecting
- 185 Tannery Brook.
- 186 • The two lots combined are not large enough to allow use of a well in lieu of installing a
- 187 costly water line and stormwater system to protect the brook;
- 188 • The two lots, subdivided, require construction of single-family dwelling units that would
- 189 overshadow the character of the neighborhood and reduce property values just to
- 190 accommodate the cost to install the water line and stormwater system required to
- 191 protect the brook; thus
- 192 • The only reasonable and practical use of these two lots are to blend in with the
- 193 surrounding neighborhoods of single and multi-family dwelling units, allowing our multi-
- 194 family dwelling unit proposal which will assure the water line and protection of Tannery
- 195 Brook are compliant and maintained.

196

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197 N Faiman asked about the site work regarding the water line and stormwater system. D Lorden
198 indicated the required water line would be 150' to 200' through ledge making it a costly investment
199 that could not be supported construction of just two (2) single family dwelling units.

200

201 JK Eckstrom identified herself as Commissioner of the Sewer and Clerk for the Water Board and
202 confirmed the installation of the water line in this location was NOT a convenient undertaking. She
203 further asked for the proposed location of the fire hydrant. J Ramos confirmed the fire hydrant
204 would be located next to the driveway.

205

206 JK Eckstrom inquired about the building design; asked if the intent was to rent or sell the units; and
207 how the land around the proposed dwelling units would be maintained.

208

209 D Lorden said it was their intent to sell the units as workforce housing. He said the land
210 surrounding the building enveloped would be maintained by a Homeowner's Association, and a
211 Stormwater Maintenance Agreement would be recorded with easement rights given the Town of
212 Wilton.

213

214 N Faiman said the Planning Board had been quite concerned about controlling the runoff that might
215 reach Tannery Brook or run down the street.

216

217 N Faiman read into the record two (2) letters of support received from the Home Economic
218 Development Team lead by J Beck, and the other by K Williams. N Faiman then opened the
219 discussion to attendees.

220

221 J Abbott, abutter, said he felt the proposal would change the neighborhood significantly. He said
222 Tannery Brook runs through his land and inquired about the water impacts.

223

224 W Cheney asked if the stormwater requirements had changed since Buchanan Construction owned
225 the lot. N Faiman said Buchanan had received a variance to control water issues which the Planning
226 Board established as part of the subdivision plan approval.

227

228 W Cheney remarked that existing conditions flood her lot as well as her neighbor B Piche.

229

230 B Piche said he has about a foot of water from proposed lot run-off and felt the proposed
231 development would incur more flooding.

232

233 N Faiman said these issues were considered by the Planning Board with the water controls that
234 were required and are enforceable, and that this discussion was not our jurisdiction.

235

236 M Ewing feels adding the additional traffic generated by the proposal is too much for this area.

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237 W Cheney feels two (2) single family dwellings is more reasonable and anything more is overkill.
238 She said the addition of six (6) residential dwelling units could generate up to 12 drivers which is
239 too dangerous on that curve and her blind drive. Additionally, it would impede the sale of her home
240 down the road.

241
242 N Faiman said the proposed ordinance changes would only allow up to two (2) dwelling units per
243 lot.

244
245 J Ramos agreed that traffic will increase, however, he said the new water line and stormwater
246 maintenance system will be a benefit and improve currently existing conditions. Furthermore, he
247 said there would be enough parking on-site and would not impact Pine Valley Street.

248
249 JK Eckstrom offered up a suggestion for two (2) residential dwelling units in lieu of three (3) units
250 per lot, and P Dugan suggested one (1) unit on the smaller lot and two (2) units on the larger lot. J
251 Ramos, emphasized the required water and stormwater costs make the latter prohibitive. He
252 reminded the Board that development of these lots will improve all conditions.

253
254 N Faiman reminded the Board the water line is not a trivial project and would be constructed
255 before foundations were laid. JK Eckstrom said the cost of the water line is significant to the
256 developer.

257
258 B Piche asked why this multi-family proposal does not deviate from the neighborhood. M Ewing said
259 there were many two (2) and three (3) family dwelling units in the surrounding neighborhoods. J
260 Stone pointed out that the density of two (2) dwelling units per lot is still smaller than the density
261 of the neighborhood.

262
263 N Faiman indicated that in approximately four (4) months, as a matter-of-right, the applicant would
264 be able to build two (2) dwelling units on each lot if a proposed amendment to the zoning
265 ordinance is approved at Town meeting.

266
267 N Faiman said that based on what has been heard from the Board and community the applicant
268 could withdraw their application without prejudice and return in the Spring, return with another
269 option, or the ask the Board to deliberate on the request of two (2) dwelling units per lot.

270
271 D Lorden requested to amend their application to limit development to two (2) residential dwelling
272 units per lot. N Faiman asked the Board to accept the amended application request and deliberate.
273 JK Eckstrom asked to continue the hearing for additional time to acquire answers about the runoff
274 and plans for water line. A Hoar questioned if that was any of the Board's business. D Lorden
275 reminded the Board, those items had already been approved by the Planning Board. N Faiman
276 further commented that the stormwater issues had been reviewed at length by the Planning Board
277 and he didn't see value in additional information.

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278 M Ewing said the neighbors were opposed to the project.

279

280 N Faiman told the attendees the zoning board is a legal body and while opinions and information
281 provided by the abutters are important, the abutters do not have a veto in the voting process. He
282 assured the attendees the Board has heard their reasons as to why they feel the proposal is
283 inappropriate.

284

285 W Cheney advised the Board to drive Pine Valley Street to experience the visibility issues. J K
286 Eckstrom supported that idea. N Faiman said he prefers the Board acts on the amended application.

287

288 **JK Eckstrom MOVED to continue the hearing to December 12, 2023 and**
289 **schedule a site visit. J Stone SECONDED.**

290 There was no discussion.

291 Voice Vote: ayes: 2

292 nays 3

293 abstain: 0

294 Motion was NOT carried.

295

296 **J Stone MOVED to deliberate on the amended application request to reduce the**
297 **number of residential dwelling units from six (6) units to four (4) total units. A**
298 **Hoar SECONDED.**

299 There was no discussion.

300 Voice Vote: ayes: 5

301 nays 0

302 abstain: 0

303 Motion was carried.

304

305 **A Hoar MOVED to close the public hearing. P Duggan SECONDED.**

306 There was no discussion.

307 Voice Vote: ayes: 5

308 nays 0

309 abstain: 0

310 Motion was carried.

311

312 **JK Eckstrom MOVED to adjourn the public hearing at ten (10) PM. P Duggan**
313 **SECONDED.**

314 There was no discussion.

315 Voice Vote: ayes: 1

316 nays 2

317 abstain: 2

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318 Motion was NOT carried.

319

320 N Faiman said he preferences the amended request. A Hoar noted the expense to make the lots
321 buildable, as required by the Planning Board, could not be supported by single family dwelling units.
322 N Faiman said these were exceptionally large lots for the district and the density request is
323 consistent with the neighborhood. JK Eckstrom reiterated that two (2) dwelling units per lot was a
324 more than reasonable use and emphasized the value of the neighborhood fire hydrant to be
325 installed. P Duggan was in agreement the amended proposal better fits the neighborhood.

326

327 A Hoar said traffic would be a concern regardless. P Duggan felt the common drive would reduce
328 the traffic stream. C Case commented that the amount of traffic could not be accurately reasoned
329 as the number of potential drivers per household could not be determined.

330

331 **A Hoar MOVED to grant the request for a variance to section 5.2.1 of the**
332 **Wilton Zoning Ordinance in regards to the amended application request to**
333 **reduce the number of residential dwelling units from six (6) units to four (4)**
334 **total units. JK Eckstrom SECONDED.**

335

336 **JK Eckstrom MOVED to continue the public hearing after ten (10) PM. A Hoar**
337 **SECONDED.**

338 There was no discussion.

339 Voice Vote: ayes: 5

340 nays 0

341 abstain: 0

342 Motion was NOT carried.

343

344 **JK Eckstrom MOVED to re-open the public hearing. A Hoar SECONDED.**

345 There was no discussion.

346 Voice Vote: ayes: 5

347 nays 0

348 abstain: 0

349 Motion was NOT carried.

350

351 Neil opened the floor to the attendees one last time. M Ewing asked about lighting requirements
352 and restrictions that might be placed on the dwelling units. Faiman said that was not a zoning board
353 issue. W Cheney asked for a summary of the hardships. N Faiman said the applicant is faced with a
354 substantial expense to install the water line and stormwater maintenance system.

355

356 N Faiman, called for a vote on the motion.

357

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358 Roll Call Vote: P Duggan aye
359 A Hoar aye
360 N Faiman nay
361 JK Eckstrom aye
362 J Stone nay

363 Motion was carried.
364

365 N Faiman instructed the applicant that a Notice of Decision would be forthcoming, and that the
366 Select Board, abutters, and any person directly involved in the hearing and affected by the decision
367 has the right to ask the Zoning Board of Adjustment to reconsider their decision by way of written
368 request no more than 30 days after the decision was made explaining the reasons why the decision
369 should be changed. He stated that any activity/progress by the applicant during that period on the
370 request could be at risk if the decisions is overturned at a rehearing.
371

372 **4. Other Business**

373 The Board agreed to defer J Stone's review of the land Law Conference (Zoning Board Track) to
374 December 12, 2023.
375

376 The Board agreed to table review of the 09.12.2023 minutes until next meeting.
377

378 **7. Adjournment**

379
380 **JK Eckstrom MOVED to defer review of the 11.14.2023 minutes to December**
381 **12, 2023. P Duggan SECONDED.**

382 There was no discussion.

383 Voice Vote: ayes: 5
384 nays 0
385 abstain: 0

386 Motion was carried.
387

388 **A Hoar made a MOTION to adjourn at 10:22 PM. JK Eckstrom SECONDED.**

389 There was no discussion.

390 Voice Vote: ayes: 5
391 nays 0
392 abstain: 0

393 Motion was carried.
394

395 Approved 12.12.2023